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EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 18th
March, 1983:—

I

BILL NO. II OF 1983

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic
of India as follows:—

1. This Act may be called the Representation of the People (Amend-
ment) Act, 1983.

Short
title
and
com-
mence-
ment.

43 of 1951. 2. After section 9A of the Representation of the People Act, 1951
(hereinafter referred to as the principal Act), the following section
shall be inserted, namely:—

Insertion
of New
Section
9B.

“9B. A person who is deemed to be set up by a political party
as a candidate shall be disqualified if he, after having been declared
elected, ceases to be a member of that political party, voluntarily
or otherwise.”

Disquali-
fication
for ceas-
ing to
be a
member
of a
political
party.

Explanation.—For the purposes of this Act—

“(i) the expression “political party” means any association or body of citizens of India calling itself a political party and registered as such with the Election Commission of India; and

(ii) a candidate shall be deemed to be set up by a political party if (a) the candidate has made a declaration to that effect in his nomination paper; (b) a notice in writing to that effect has, not later than 3 p.m. on the last day of withdrawal of candidature, been delivered to the returning officer of the constituency; and (c) the said notice is signed by the President, the Secretary or any other office bearer of the party and the President, Secretary or such other office bearer is authorised by the party to send such notice and the names and specimen signatures of the President, the Secretary or such other office bearer are communicated in advance to the returning officer of the constituency and to the Chief Electoral Officer of the State.”

Insertion
of New
Section
10B.

3. After section 10A of the principal Act, the following section shall be inserted, namely:—

Publica-
tion of
Disquali-
fication.

“10B. If it comes to the notice of the Election Commission that a person is disqualified under section 9B, the Election Commission shall, within ten days, by order published in the Official Gazette, declare him to be disqualified from the date of the Order.”

Amend-
ment of
Section
11.

4. In section 11 of the principal Act, for the brackets, words, figure and letter (except under section 8A), the brackets, words, figures and letters (except under sections 8A and 9B) shall be substituted.

Insertion
of New
Section
33A.

5. After section 33 of the principal Act, the following section shall be inserted, namely:—

Declara-
tion at
the time
of nomi-
nation.

“33A. A candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him specifying whether he contests as a member of a political party or not; and that in case he, after having been elected, ceases to be a member of that political party, he shall be disqualified.”

STATEMENT OF OBJECTS AND REASONS

Defection for a consideration is anathema to parliamentary democracy as it vitiates the will of the electors. The politics of India, which is the largest democracy in the world, is inflicted by the canker of defections.

Therefore, to put an end to this evil this Bill proposes to make every candidate who contests an election to declare in his nomination paper whether he contests as a member of a political party or not. He has further to declare that in case he, after having been declared elected, ceases to be a member of that political party, he shall automatically stand disqualified. This Bill seeks to make suitable amendments to that effect in the Representation of the People Act.

MURASOLI MARAN

I

BILL NO. VI OF 1983

A Bill to amend the Payment of Gratuity Act, 1972

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

Short
title and
extent.

1. (1) This Act may be called the Payment of Gratuity (Amendment) Act, 1983.

(2) It extends to the whole of India.

Amend-
ment of
section 2.

2. In the Payment of Gratuity Act, 1972 (hereinafter referred to as the principal Act), in section 2,—

39 of 1972.

(a) in clause (c),—

(i) for Explanation I, the following Explanation shall be substituted, namely:—

“Explanation I.—In the case of an employee who has been taken on the rolls of an establishment, the entire period of his service during which he is on the rolls of the establishment, shall be taken into account for payment of gratuity irrespective of the number of days during which he has worked or the amount of wages he has earned.”

(ii) in Explanation II, for the words “seventy-five per cent.” the words “fifty per cent.” shall be substituted and the words “or 120 days whichever is less” shall be inserted at the end.

(b) in clause (e),—

(i) for the words "one thousand rupees", wherever they occur, the words "two thousand rupees" shall be substituted; and

(ii) in the Explanation:—

(a) for the words "five years", the words "one year" shall be substituted; and

(iii) for the portion beginning with the words "in respect of the period" and ending with the words "during that period", the words "shall be paid for the entire period of service", shall be substituted.

3. In section 4 of the principal Act,—

Amend-
ment of
section 4.

(a) in sub-section (1), for the words "five years", wherever they occur, the words "one year" shall be substituted;

(b) in sub-section (2),—

(i) for the words "fifteen days" the words "one month's" shall be substituted;

(ii) in the first proviso, after the words "employment" the words "a month's wage being determined by multiplying the daily wage by thirty" shall be inserted; and

(iii) in the second proviso, for the words "seven days" the words "fifteen day's" shall be substituted;

(c) sub-section (3) shall be, and shall be deemed always to have been omitted.

STATEMENT OF OBJECTS AND REASONS

The Payment of Gratuity Act is meant as a measure of social security to the workers. But many of the provisions of the existing Act are not clear and consequently lead to litigation in its actual implementation resulting in harassment and deprivation to the workers. Simultaneously, due to price rise, actual money value has also undergone a change and it requires raising of the ceiling on the quantum of gratuity. All these factors necessitate the amendment of the Act.

Hence this Bill.

SUKOMAL SEN.

FINANCIAL MEMORANDUM

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India to the tune of approximately five lakhs rupees per annum.

Non-recurring expenditure is not likely to be involved.

III

BILL No. V OF 1983

*A Bill to prevent the in
community on a men
to provide for penal
nected therewith.*

BE it enacted by Parli
of India as follows:—

1. (1) This Act may
Act, 1983.

(2) It shall come into
may, by notification in

2. In this Act, unless

(a) "Community
together by birth, c
ceremonies or who
and includes a cast

(b) "Member" r
a member of any community.

3. Any member who commits any of the following acts shall be deemed to have imposed social disability on a member of his community if he—

(a) denies, prevents or obstructs or causes to deny, prevent or obstruct any member of his own community from having access to or from using any place of worship or prayer or any place intended to be used for performing any religious ceremony or rite, prevalent or practised in his community;

Imposi-
tion of
social
disabi-
lities.

(b) prevents or obstructs or causes to prevent or obstruct any member of his community from having access to or from using any place used or intended to be used for a charitable, religious or public purpose and established, run, or maintained wholly or partly by his own community for and on behalf of the community and which is normally available for use of or by any member of his own community;

(c) prevents or obstructs or causes to prevent or obstruct any member of his community from enjoying any benefit under a charitable trust or Wakf created for the benefit of his community;

(d) prevents or obstructs or causes to prevent or obstruct any member of his community from having access to or using the facilities of any school, educational institution, medical institution, community hall, club hall, cemetery, burial ground or any other place used or intended to be used by or for the benefit of his community;

(e) prevents or obstructs or causes to prevent or obstruct any member of his community from observing any social or religious custom or usage or ceremony or from taking part in a social or religious functions, congregation, assembly meeting or procession;

(f) prevents or obstructs or causes to prevent or obstruct any member of his community from establishing or maintaining such social, professional, or business relations as he would ordinarily establish or maintain with other members of his community;

(g) abets, incites, provokes, or encourages directly or indirectly any member of his community, to sever social, religious, professional or business connections or relations with any other member or group of members of his community;

(h) denies or refuses or causes to refuse or deny to any member of his community the right to perform such marriage, funeral or other religious ceremonies and rites as the members of his own community usually and ordinarily perform;

(i) prevents or obstructs or causes to prevent or obstruct any member of his community from entering, lodging in or otherwise using any Dharamshala, Sarai or Musafarkhana which is ordinarily open to members of his community; or

(j) prevents or obstructs or causes to prevent or obstruct any member of his community from entering or using any place of worship such as, temple, mosque, church, gurudwara or any cemetery, crematorium or burial ground which is ordinarily open to members of his community.

Penalties.

4. (1) Whoever imposes any social disability on any member of his community shall on conviction be punished with imprisonment of either description which may extend to six months or with fine, which may extend to one thousand rupees or with both.

(2) Whoever aids or abets in the commission of any offence punishable under this Act or connives at the commission of any such offence or

harbours any offender or destroys any evidence shall on conviction be punished with imprisonment of either description which may extend to six months or with fine, which may extend to one thousand rupees or with both.

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act:—

(a) shall be cognizable, and

(b) may, with the permission of the Court, be compounded,

Offences under this Act to be cognizable and compoundable.

6. (1) A police officer may,—

(a) remove or cause to be removed, any barricade or obstruction erected, placed or found in any place, if such police officer has reasonable ground to believe that the barricade or obstruction was so erected or placed in order to be used for the purpose of committing an offence under this Act, or

(b) open or cause to be opened any gate or door, if such police officer has reasonable ground to believe that such gate or door was closed for the purpose of committing an offence under this Act,—

Police Officers to take action in cases of imposition of social disabilities.

(2) Whenever a police officer has reasonable ground to believe that any person is likely to commit an offence under this Act, he may arrest such person without a warrant and deliver him into the custody of the officer-in-charge of a police station who may either release the person arrested on his executing a bond with or without surety for his appearance in a Magistrate's Court or take or cause to be taken the person arrested before a Magistrate within twenty-four hours after the arrest.

(3) When a person appears before a Magistrate in compliance with a bond executed by him under sub-section (2) or brought before a Magistrate he may require such person to show cause why he should not be ordered to execute a bond with or without sureties for his good behaviour for such period not exceeding three years as the Magistrate may think fit. If after due inquiry, the Magistrate is satisfied that such person should execute a bond with or without sureties, the Magistrate shall make an order accordingly and the provisions of sections 107 and 112 to 123 (both inclusive) of the Code of Criminal Procedure, 1973 shall apply to or in relation to all orders to furnish security made under this sub-section.

STATEMENT OF OBJECTS AND REASONS

The outdated and unconstitutional practices such as untouchability, social boycotts, etc., are still practised in various communities in the country resulting in great harassment to individuals or groups. The harassment so caused, naturally gives rise to illfeeling and disharmony towards each other. This has unhealthy effect on the social life of the community. It is, therefore, necessary to root out these evils by putting a stop to the imposition of the various social disabilities. The objective can be achieved by enacting suitable legislation for the purpose and also for providing punishment to those who indulge in such evil practices.

Hence this Bill.

SADASHIV BAGAITKAR.

IV

BILL NO. IV OF 1983

A Bill to provide for the right to privacy to every citizen of India

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

- | | |
|---|-------------------------------|
| 1. (1) This Act may be called the Right to Privacy Act, 1983. | Short title and extent. |
| (2) It extends to the whole of India. | |
| 2. In this Act, unless the context otherwise requires,— | Definition. |
| “Court” means the local court having unlimited jurisdiction to entertain civil suits or criminal proceedings. | |
| 3. Every citizen shall have a right to maintain and preserve the privacy of his person, his family, his property, his conversation and his views, expressed or communicated privately, free from interference or infringement by any other person or authority subject to reasonable restrictions on the exercise of the right in the public interest or in the interest of national security as determined by law. | Right to privacy. |
| 4. (1) Any person whose right to privacy has been subjected to any unreasonable interference or infringement shall have a cause of action against the offender. | Cause of action and defences. |
| (2) In any action for interference with or infringement of the right to privacy, it shall be complete defence to show that— | |
| (a) the defendant did not infringe the right to privacy knowingly; or | |

(b) where the infringement consists of words, written or spoken, or published in a newspaper, periodical or book or broadcast through radio or television, the infringement was necessary for fair comment upon a subject of public interest; or

(c) the infringement was necessary for the conduct of business profession or occupation of the defendant and the defendant neither knew nor could have reasonably known that the plaintiff would object thereto; or

(d) the plaintiff, explicitly or implicitly, consented to the infringement; or

(e) the defendant was acting in accordance with the authority conferred upon him by law for the time being in force.

Relief
by the
Courts
and
damages.

5. (1) In any action brought under this Act, the court may award damages for the infringement or grant permanent injunction against any future infringement.

(2) In assessing the damages, the court shall have regard to all the circumstances of the case including the seriousness and the duration of the infringement, the effect of the infringement upon the social status, financial position and physical welfare of the plaintiff or his family and any financial gain which the defendant has made as a result of the infringement.

Liability
of third
party.

6. Any other person who derives any financial benefit from the infringement of privacy shall also be liable with the principal offender.

Right to
file
criminal
complaint.

7. (1) In addition to civil action for damages, any citizen who has suffered on account of any infringement in person or property shall have the right to file a criminal complaint against the offender under the relevant provisions of the Indian Penal Code.

45 of 1860

(2) In any such case it shall not be a defence that the defendant was acting in accordance with the authority conferred upon him by law.

STATEMENT OF OBJECTS AND REASONS

Every citizen has a right to live his life in privacy without interference, or infringement, or intrusion, by any person or the State. In recent years there has been considerable erosion of privacy both by the Government agencies as well as by the mass-media. There have also been cases of physical injury by the police in the process of invasion of privacy under legal authority.

The right to privacy must be defended by taking recourse to both civil action and criminal proceedings. The existing laws of trespass or libel have proved to be ineffective and inadequate in safeguarding the privacy of a citizen.

It is felt that there should be a specific legislation to provide and guarantee the right to privacy to the citizens.

Hence this Bill.

SYED SHAHABUDDIN

V

BILL NO. III OF 1983

A Bill to provide Representation in Parliament to Indian national residing abroad.

WHEREAS every citizen of India has a right to participate in the Governance of the country;

WHEREAS elections to Parliament are held on the basis of adult suffrage;

WHEREAS a large number of Indian nationals who ordinarily reside abroad are keen to participate in the parliamentary elections to be held from time to time in India; and

WHEREAS it is in the national interest to profit by their experience and ideas and to take notice of their problems and interests;

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

Short
title,
extent and
commence-
ment.

1. (1) This Act may be called the Indian Nationals Abroad (Representation in Parliament) Act, 1983.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Right to
Vote to
Indian
nationals
abroad.

2. There shall be formed, for the purposes of elections to the House of the People, one or more parliamentary constituencies of all citizens of India residing abroad, in a manner that each constituency covers a geographically contiguous area and has a comparable number of citizens of India residing therein as in an average Parliamentary constituency in India.

3. The Head of Diplomatic Mission and Consular Officer of the Government of India in the foreign country shall be designated as an Electoral Officer for the purpose of conducting an election and shall assist the Election Commission in conducting the election.

Diplomatic and Consular Officers to assist Election Commission and to work as Electoral Officers.

4. The Election Commission shall prepare separate electoral rolls of Indian nationals residing abroad for each constituency referred to in section 2

Election Commission to prepare Electoral rolls of Indian nationals abroad.

5. (1) The Central Government shall make rules to carry out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the manner of preparation of electoral rolls of Indian nationals residing abroad country-wise;

(b) the location of polling booths and appointment of polling officers;

(c) the delivery of ballot papers to the Electoral Officers and to the Polling Officers;

(d) transmission of used ballot papers;

(e) the counting of votes cast; and

(f) manner of transmission of result of count to the Election Commission.

(3) The rules so framed shall come into force with immediate effect and shall be laid on the Table of each House of Parliament and if any rule is disapproved or modified by Parliament within forty days of its being so laid, it shall cease to be in force, or shall remain in force with such modification as the case may be.

STATEMENT OF OBJECTS AND REASONS

Over the years large body of Indian nationals have come to reside ordinarily in foreign countries. They continue to take keen interest in the affairs of their country, but are unable to exercise their franchise because there is no machinery in existence to enable them to register themselves as voters or to vote in the elections.

For various reasons it is considered impracticable for Indian nationals residing abroad to be registered as voters at their permanent residences in India and even if a citizen is registered, it is impracticable for him to receive the ballot paper and to cast his vote in his home constituency.

Keeping in view this difficulty, a new approach to the problem is proposed in this Bill. The Indian nationals residing abroad should form one or more parliamentary constituencies comparable in the number of voters to an average constituency in India. They could then be represented in Parliament as representatives of Indian nationals residing abroad. This would have the added advantage that these representatives would focus attention on the problems and reflect aspirations of the Indian community they represent and bring to bear on national affairs the views of their constituents and their experience. It may be added that under this scheme there could be a separate time schedule for these overseas constituencies, in case it is difficult to hold them exactly at the same time as parliamentary elections in India.

This Bill shall remove a genuine grievance of Indian nationals residing abroad and strengthen their emotional bond with their country of origin.

Hence this Bill.

SYED SHAHABUDDIN

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill provides that the Central Government shall make rules for carrying out the purposes of the Act. These rules will relate to matters of detail only. The delegation of legislative power is of a normal character.

SUDARSHAN AGARWAL,
Secretary-General.

